

**DECISION**

THE COMPTROLLER GENERAL  
OF THE UNITED STATES  
WASHINGTON, D.C. 20548

FILE: B-209417

DATE: October 27, 1982

MATTER OF: D. J. Findley and Company

**DIGEST:**

GAO will not question a contracting officer's determination that a small business is nonresponsible where that determination is affirmed by Small Business Administration's (SBA) refusal to issue a Certificate of Competency (COC). In addition, GAO will not question SBA's refusal to issue a COC absent a showing of fraud or bad faith.

D. J. Findley and Company protests the determination that it is a nonresponsible bidder under solicitation No. SPD-82-23 issued by the Immigration and Naturalization Service. We dismiss the protest.

The contracting officer determined that Findley was nonresponsible. Since Findley is a small business, however, the contracting officer referred the question of its responsibility to the Small Business Administration (SBA) for the possible issuance of a Certificate of Competency (COC). SBA declined to issue a COC. Findley then protested the award of this contract to any firm other than itself, contending that the preaward survey of Findley's capability to perform the contract was inadequate and that the SBA erroneously declined to issue it a COC.

SBA has conclusive authority to determine a small business bidder's responsibility by issuing or declining to issue a COC. 15 U.S.C. § 637(b)(7)(A) (Supp. III 1979). Thus, our Office will not question a contracting officer's nonresponsibility determination where the SBA affirms that determination by refusing to issue a COC. Aervoe-Pacific Company, B-206062.2, April 26, 1982, 82-1 CPD 384. In addition, we will not

question the SBA's refusal to issue a COC unless the small business can show that there was fraud or bad faith on the part of Government officials. C & W Associates, Inc., B-206377, May 4, 1982, 82-1 CPD 420. There has been no showing of fraud or bad faith here.

The protest is dismissed.

*Harry R. Van Cleve*  
Harry R. Van Cleve  
Acting General Counsel